

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Gregory P. & Deanna E. Smith,
Petitioners-Appellants,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-1091
Parcel No. 180/00864-502-000

On July 13, 2012, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Gregory P. and Deanna E. Smith were self-represented and requested the appeal proceed without a hearing. The Polk County Board of Review designated Assistant County Attorneys Ralph Marasco, Jr., David Hibbard, and Anastasia Hurn as its representatives. The Appeal Board having reviewed the record and being fully advised, finds:

Findings of Fact

Gregory P. and Deanna E. Smith are the owners of a residential, single-family property located at 9274 NW Lakeridge Lane, Polk City, Iowa. The property is a two-story home, built in 1998, and has 2688 square feet of above-grade finish. The basement is 1292 square feet and has 902 square feet of average-plus finish. Additionally, there is an 810 square-foot, attached garage; a 282 square-foot, open porch; and a 320 square-foot deck. The site is 1.124 acres.

The Smiths protested to the Polk County Board of Review regarding the 2011 assessment of \$394,400, which was allocated as follows: \$56,600 in land value and \$337,800 in improvement value. Their claim was based on the following grounds: 1) that the assessment was

not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b); and 3) that there has been a change in the value since the last assessment under 441.37(1) and 441.35(3). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim. The Smiths claimed the correct value was \$320,000.

The Board of Review granted the protest, in part, and reduced the total assessment to \$343,700, allocated as \$56,600 in land value and \$287,100 in improvement value.

The Smiths then appealed to this Board reasserting their claims.

On the Board of Review protest form, the Smiths listed three properties as equity comparables. The properties are 9273 NW Lakeridge Lane, 9221 NW Lakeridge Lane, and 3564 NW 92nd Place. All three properties are two-story homes, built in the late 1990's; however, they all lack basement finish. None of the properties appear to have sold recently. The Smiths did not make any comparisons between these properties and the subject property for an equity analysis. Therefore, we give this information no consideration.

The Smiths also submitted an appraisal completed by David C. Fellman with Professional Appraisers Group, Des Moines, Iowa. Fellman prepared the appraisal for mortgage financing purposes with an effective date of November 16, 2010. The appraisal valued the property in fee simple. He did not develop the income or cost approaches to value and relied solely on the sales comparison approach to reach his opinion of value of \$320,000.

Fellman considered five comparable sales, all located within five blocks or roughly one-half-mile from the subject property. The sales occurred between December 2009 and November

2010; they were all two-story homes built from mid 1990 to 2000; and all offered similar quality/condition to the subject property. After market adjustments, the indicated value range was \$305,200 to \$336,500. Fellman's gross adjustments ranged from 4.36% to 13.61%, with a mean gross adjustment of 8.19%. We find Fellman's analysis and conclusions to be the most reasonable and reliable evidence in the record of the fair market value of the subject property.

The record also includes an appraiser's analysis completed by the Assessor's office for the Board of Review. This analysis includes a comparison of five properties; four which were considered by Fellman.

The one sale considered by the Board of Review that was not in Fellman's appraisal was located at 9285 NW 36th Street. This property sold for \$377,500 and is the oldest sale, occurring in September 2009. This property also has a 2-05 quality rating compared to the subject's quality rating of 3+10. The other sales in the record have quality ratings ranging from 3-05 to 3+10. We consider these more comparable. Because of the discrepancy in quality rating, the older sales date, and the significant difference in the sales price of this property, we do not consider it sufficiently comparable.

After adjustments for differences, the sale prices of the remaining four Board of Review comparable properties ranged from \$343,000 (rounded) to \$371,000 (rounded.) The gross adjustments to these four comparable properties ranged from 23.04% to 33.63%, with a median gross adjustment of 25.86%. The adjustments made by the Board of Review appear to be cost adjustments rather than market adjustments. Therefore, we give this analysis no consideration.

We note, five of the six market value comparable properties in the record sold for less than their assessed values. Additionally, the sales price of the property that sold for more than its assessed value was less than 0.005% above the assessed value.

The best evidence in the record is Fellman's appraisal. Therefore, we modify the January 1, 2011 assessment of the Polk County Board of Review.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). However, new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of*

Review of the City of Davenport, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

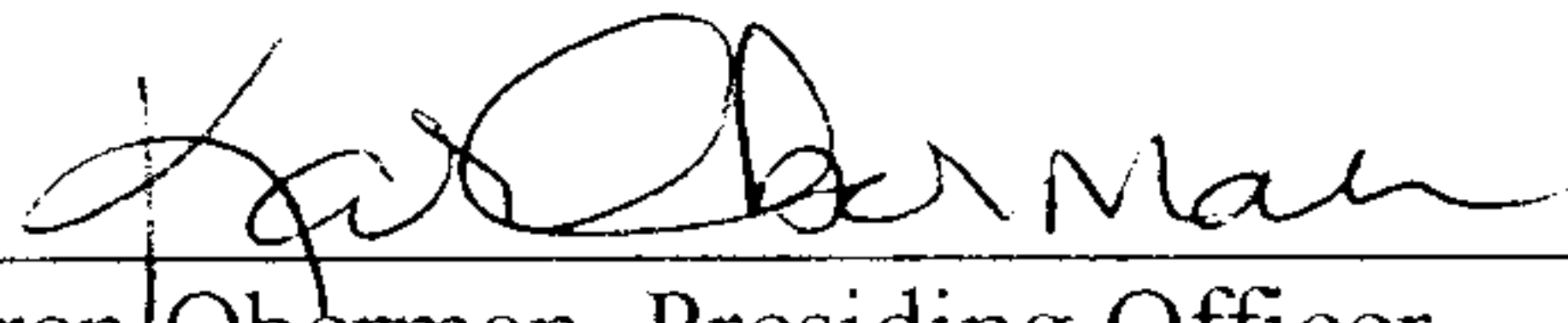
The Smiths provided three properties they considered to be equity comparables; however, no adjustments were made for differences and they did not provide a ratio analysis. The Smiths did not show inequity under the tests of *Maxwell* or *Eagle Foods*.

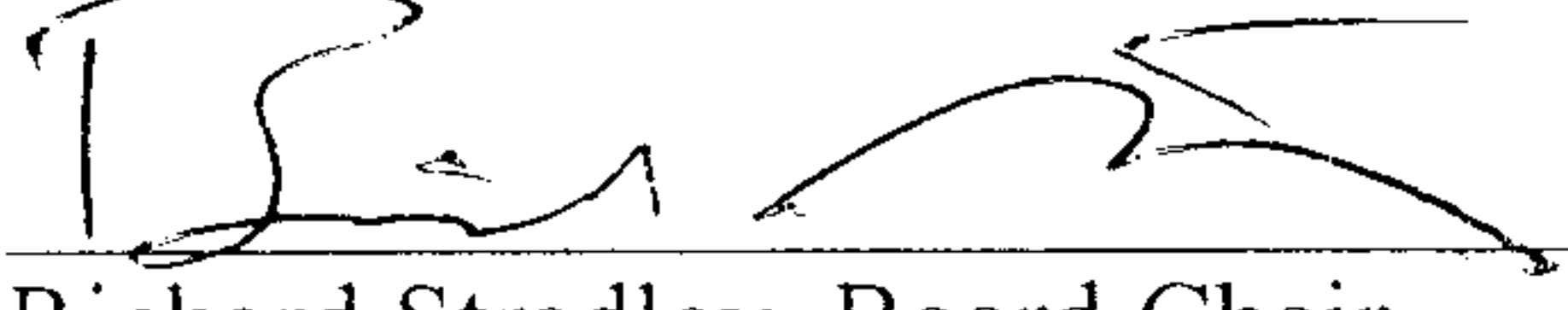
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Smiths submitted an appraisal by David C. Fellman demonstrating the fair market value of their property was less than the assessment. We find Fellman’s appraisal to be the most credible evidence in the record of the subject property’s fair market value.

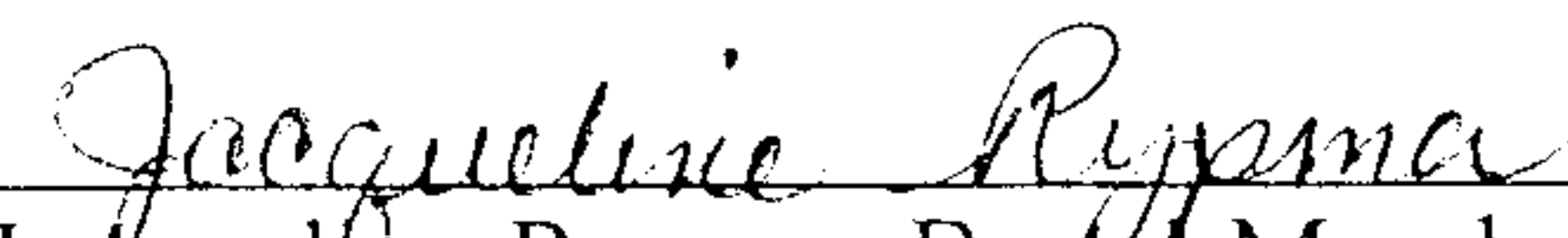
THE APPEAL BOARD ORDERS that Gregory P. and Deanna E. Smith’s property located at 9274 NW Lakeridge Lane, Polk City, Iowa, is modified to a total value of \$320,000, allocated as \$56,600 in land value and \$263,400 in improvement value as of January 1, 2011.

The Secretary of the Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 27 day of August, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

Gregory P. & Deanna E. Smith
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Polk City, Iowa 50226
APPELLANT

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Des Moines, Iowa 50309
REPRESENTATIVE FOR APPELLEE

Jamie Fitzgerald
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Des Moines, IA 50309
AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-27</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	